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Paper No.

CARMEN PILI EKSTROM  
727 SUNSHINE DRIVE  
LOS ALTOS CA 94024

APR 17 2007

In re Application of:  
Leonel Y. Martinez, et al.  
Serial No.: 10/613,433  
Filed: July 3, 2003  
Attorney Docket No.: MX/JFC-Serv-001

DECISION ON PETITION  
FROM REQUIREMENT FOR  
RESTRICTION UNDER 37 CFR § 1.144

This is in response to Applicant's petition under 37 CFR § 1.144 from requirement for restriction, dated December 21, 2005, wherein Applicant petitions for the withdrawal of the restriction requirement first asserted on December 16, 2004 and made final on May 19, 2005.

The petition is hereby DENIED. Applicants' December 21, 2005 arguments regarding two way distinctness are not persuasive since the Examiner has correctly identified inventions II and I as a process of making and product made, not a combination and a subcombination. Applicants' December 21, 2005 arguments regarding "single inventive concept" and "unity of invention" are not persuasive since the instant application was not filed under the Patent Cooperation Treaty, 35 U.S.C. § 371. The restriction requirement made final on May 19, 2005 is sustained.

Telephone inquiries should be directed to Dean Reichard at (571) 272-2800 ext 31.

The above-identified application is being forwarded to the Board of Patent Appeals and Interferences (BPAI) for prompt appropriate action.

Andrew Hirshfeld, Acting Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components